

ORDINANCE COMMITTEE MEETING
TUESDAY, AUGUST 25, 2009 @ 6:30 PM

- Ordinance for minimum inspection as required by the state
- Chicopee 40R Zoning District referred to Ordinance out of order
- Chapter 46-13 Out of Court Settlements
- New definition for inoperable vehicles
- Chapter 275-59 C Special Permit
- Chapter 275-58 C Special Permit
- Misc. Traffic Ordinances
- Revision of Purchasing Ordinance to address issue of Responsible Employer Legislation
- Minutes



CHICOPEE CITY COUNCIL
ORDINANCE COMMITTEE

ACCEPTED 9-8-09

MEMBERS

James Tillotson, Chairman
George Moreau, Vice-Chairman
Donald Demers
John Vieau
Robert J. Zygarowski

MINUTES
August 25, 2009

The following are the minutes of a public hearing held Tuesday, August 25, 2009 at 6:30 PM in the City Council Chambers, Fourth Floor, City Hall Annex, 274 Front Street, Chicopee, MA 01013.

Members Present: Tillotson, Moreau, Demers, Zygarowski (arrived 6:35)

Members Absent Vieau

Also Present Councilor Swider, Daniel Garvey (Associate City Solicitor), Brian Salamon (Purchasing Agent), Carissa Lisee (Building Inspector)

The meeting was called to order at 6:30 PM

ITEM #1

BE IT ORDAINED by the City Council that the Code of the City of Chicopee for the Year 1991, as amended be further amended as follows:

Add Chapter 122-2 Fees

M. Required minimum inspections and certification for specified use groups

Carissa explained that the fees charged are not changing. The language needs to be adopted into the city code because it is no longer covered under state statute.

Motion made by Councilor Moreau to approve.

Committee vote 4 – 0 favorable.

ITEM #2

Communication regarding Chicopee Center 40R Zoning District Ordinance and Design Standards.

Chairman Tillotson informed the committee that this item was referred to committee in error and needs to be removed.

Motion made by Councilor Moreau to remove from the file.
Committee vote 4 – 0 favorable.

ITEM #3

BE IT ORDAINED by the City Council that the Code of the City of Chicopee for the Year 1991, as amended, be and hereby is further amended as follows:

Chapter 46 Law Department

Delete Chapter 46-13
Add Chapter 46-13

46-13 Out-of-court settlements.

All out-of-court settlements shall be made subject to the approval of the appropriating body except as provided herein. The City Solicitor shall be authorized to settle claims for personal injury or property damage for any amount at or below the limit as may be set, from time to time, for the Small Claims actions in the District Court. The City Solicitor shall report annually to the Mayor and the City Council regarding the number of claims so settled and the amount paid for each such settled claim. The authority to settle claims as provided in this section is subject to municipal appropriation. Nothing in this ordinance shall interfere with the authority of a duly authorized and funded Claims and Accounts Committee of the City Council.

Motion made by Councilor Moreau to approve.
Committee vote 4 – 0 favorable.

ITEM #4

ORDAINED, that the City of Chicopee acting under the provision of Massachusetts General Laws, as amended and of any and every power and authority it thereunto enabling under its charter, hereby

Amends Chapter 262-7 as follows

By deleting the definition of inoperable:

In order for a motor vehicle to be inoperable as that term is used in this Chapter, it must not have a valid inspection sticker, or be incapable of operation under its own power, or be unable to run without assistance, or not be capable of safe movement, or not be fit in all ways for safe, legal and ordinary use as a motor vehicle on the public ways of the Commonwealth. Any vehicle which is inoperable and is parked or stored in violation of this Chapter may be removed by The City in accordance with this chapter.

Motion made by Councilor Moreau to approve.
Committee vote 4 – 0 favorable.

ITEM #5

BE IT ORDAINED by the City Council that the Code of the City of Chicopee for the Year 1991, as amended, be and hereby is further amended as follows:

Business B – Add to Chapter 275-59 C Special Permits to following (9) Adult Uses

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(10) Nursing Homes, Assisted Living, Over 55 Age-Restricted Housing

In order to provide residential alternatives for the aged, chronically ill, and disabled, the City Council may consider special permits for nursing homes, assisted living and over 55 age restricted housing when, in addition to the special permit evaluation criteria cited in 275-9 (Special Permits):

- (a) Site conditions and access constraints could impede long term successful business or industrial use of subject property.
- (b) Subject property borders residential districts and its residential use would complement the character and function of the existing surrounding neighborhood.
- (c) Subject property borders or includes unique natural features, open space, or historic resources that would be better preserved and enjoyed by the public over the long term through residential rather than business or industrial uses.
- (d) Proposed project complies with the following requirements:

| | Nursing Home | Assisted Living | Over 55 |
|--|---|---|--|
| Frontage | 50' | 50' | 50' |
| Area -- minimum | 2 acres | 2 acres | 2 acres |
| Depth | 200' | 200' | 200' |
| Front, side and rear yard setback from property line for principle and accessory buildings | 50' | 50' | 50' |
| Front, side and rear yard setback from interior access drive for principle buildings | 25' excepting loading docks and passenger pick up | 25' excepting loading docks and passenger pick up | 25' excepting loading docks and passenger pick up |
| Parking See also Chapter 275-40 (Parking) | One (1) space per three (3) beds, and one (1) space per four (4) employees on the largest shift, plus adequate parking for visitors and vehicles associated with facility | One (1) space per 3 units , and one (1) space per four (4) employees on the largest shift, plus adequate parking for visitors and vehicles associated with facility | One (1) space per studio and one bedroom unit, two (2) spaces per two (2) bedrooms or more, and one (1) space per four (4) employees on the largest shift, plus adequate parking for visitors and vehicles associated with facility. |

| | | | |
|------------------------------------|--|--|--|
| Parking lot setbacks | 25' from property side, rear and street lot line. | 25' from property side, rear and street lot line. | 25' from property side, rear and street lot line. |
| Loading docks | Design for minimum exposure to units and abutting residential property for noise control | Design for minimum exposure to units and abutting residential property for noise control | Design for minimum exposure to units and abutting residential property for noise control |
| Trash receptacles/dumpsters | Design for minimum exposure to units and abutting residential property for odor and noise control | Design for minimum exposure to units and abutting residential property for odor and noise control | Design for minimum exposure to units and abutting residential property for odor and noise control |
| Height – Principle Buildings | 3 stories or 40' | 3 stories or 40' | 3 stories or 40' |
| Height - accessory buildings | 1 story | 1 story | 1 story |
| Density – total buildout | No limit | No limit | No limit |
| Density – units per building | No limit | No limit | No limit |
| Open Space | 10% usable | 20% usable | 25% usable |
| Principle building spacing | 25' minimum between principle buildings | 25' minimum between principle buildings | 25' minimum between principle buildings |
| Signage See also 275-50 (signs) | One sign at access drive and public street intersection. 30 SF max | One sign at access drive and public street intersection. 30 SF max | One sign at access drive and public street intersection. 30 SF max |
| Screening | Dumpster pads and loading areas shall be screened from public view and view of residents. Parking shall be screened from public view. Minimum 4 foot fence or 4' evergreens at time of planting. | Dumpster pads and loading areas shall be screened from public view and view of residents. Parking shall be screened from public view. Minimum 4 foot fence or 4' evergreens at time of planting. | Dumpster pads and loading areas shall be screened from public view and view of residents. Parking shall be screened from public view. Minimum 4 foot fence or 4' evergreens at time of planting. |
| Lightning | All lighting fixtures shall be integrated into the architectural style of the development. All exterior structural and site lighting (not including access road lighting) shall be | All lighting fixtures shall be integrated into the architectural style of the development. All exterior structural and site lighting (not including access road lighting) shall be | All lighting fixtures shall be integrated into the architectural style of the development. All exterior structural and site lighting (not including access road lighting) shall be |

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| | retained on site and shall not create a nuisance to abutting properties and streets. All exterior light sources shall be appropriately shielded from off-premise viewing. Access road lighting shall be designed to prevent nuisance to abutting properties by reason of light and glare. | retained on site and shall not create a nuisance to abutting properties and streets. All exterior light sources shall be appropriately shielded from off-premise viewing. Access road lighting shall be designed to prevent nuisance to abutting properties by reason of light and glare. | retained on site and shall not create a nuisance to abutting properties and streets. All exterior light sources shall be appropriately shielded from off-premise viewing. Access road lighting shall be designed to prevent nuisance to abutting properties by reason of light and glare. |
| Mechanical Units | Locate to minimize disturbance to abutting or nearby residential uses | Locate to minimize disturbance to abutting or nearby residential uses | Locate to minimize disturbance to abutting or nearby residential uses |
| Site Plan Review | See Chapter 275-6 | See Chapter 275-6 | See Chapter 275-6 |

Add to 275-59 D. Dimensional requirements for uses other than nursing homes, assisted living and over 55 age restricted housing shall be as follows:

Motion made by Councilor Moreau to approve.
Committee vote 4 – 0 favorable.

ITEM #6

BE IT ORDAINED by the City Council that the Code of the City of Chicopee for the Year 1991, as amended, be and hereby is further amended as follows:

Business A – Add to Chapter 275-58 C Special Permits to following (9) Adult Uses
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(10) Nursing Homes, Assisted Living, Over 55 Age-Restricted Housing

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(d) Proposed project complies with the following requirements:

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| Mechanical Units | Locate to minimize disturbance to abutting or nearby | Locate to minimize disturbance to abutting or nearby | Locate to minimize disturbance to abutting or nearby |

| | | | |
|------------------|-------------------|-------------------|-------------------|
| | residential uses | residential uses | residential uses |
| Site Plan Review | See Chapter 275-6 | See Chapter 275-6 | See Chapter 275-6 |

Add to 275-58 D. Dimensional requirements for uses other than nursing homes, assisted living and over 55 age restricted housing shall be as follows:

Motion made by Councilor Moreau to approve.
Committee vote 4 – 0 favorable.

ITEM #7

BE IT ORDAINED by the City Council of the City of Chicopee as follows: that Chapter 260, as amended on February 21, 1995, be further amended by adding to the following in schedule

I Parking Regulations

CIRCLE DRIVE

Odd Side

PARKING PROHIBITED

Motion made by Councilor Zygarowski to approve.
Committee vote 4 – 0 favorable.

ITEM #8

BE IT ORDAINED by the City Council of the City of Chicopee as follows: that Chapter 260, as amended on February 21, 1995, be further amended by adding to the following in schedule

HANDICAP PARKING

CORNER OF BURTON & BESTON STREETS

Handicap Parking

Councilor Swider requested that this proposed ordinance be sent to the City Engineer for review and recommendations.

Motion made to table. Motion passed.

ITEM #9

BE IT ORDAINED by the City Council of the City of Chicopee as follows: that Chapter 260, as amended on February 21, 1995, be further amended by adding to the following in schedule

XIII Right Turn on Red

CENTER STREET

At intersection of Exchange Street – 8:00 AM – 5:00 PM, M-F

RIGHT TURN ON RED

Motion made to approve.

Committee vote 4 – 0 favorable.

ITEM #10

BE IT ORDAINED by the City Council of the City of Chicopee as follows: that Chapter 260, as amended on February 21, 1995, be further amended by adding to the following in schedule

XIII Right Turn on Red

SPRINGFIELD STREET

Both travel directions at intersection of Center Street

RIGHT TURN ON RED

Councilor Swider requested that this be table to see how traffic will flow when the previous ordinance is in place.

Motion made to table. Motion passed.

ITEM #11

BE IT ORDAINED by the City Council of the City of Chicopee as follows: that Chapter 260, as amended on February 21, 1995, be further amended by adding to the following in schedule

I Parking Regulations

McCarthy Avenue

From the fire hydrant towards College Street

PARKING PROHIBITED FROM HERE TO CORNER

Motion made to approve.

Committee vote 4 – 0 favorable.

ITEM #12

BE IT ORDAINED by the City Council that the Code of the City of Chicopee for the Year 1991, as amended, be and hereby is further amended as follows:

Delete current Chapter 82 (1-16)

Add Chapter 82 (1-11)

This provision shall apply to all vertical construction projects completed within the City of Chicopee when: the total contract value exceeds *Two Million 00/100 Dollars (\$2,000,000.00)*;

1. The Bidder and all subcontractors under the Bidder shall make a good faith effort to employ local workers when qualified local workers are available for work.
2. The Bidder and all subcontractors under the Bidder must comply with the obligations established under M.G.L. c. 149 to pay the appropriate lawful prevailing wage rates to their employees.
3. The Bidder and all subcontractors under the Bidder must maintain appropriate industrial accident insurance coverage for all the employees on the project in accordance with M.G.L. c. 152.
4. The Bidder and all subcontractors under the Bidder must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes, and income tax withholding. (See M.G.L. c. 149, §148B on employee classification).
5. The Bidder and all subcontractors under the bidder must at the time of bidding certify that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration at the time the employee begins work. The Bidder and all subcontractors shall furnish documentation of successful completion at the time the employee begins work.
6. The Bidder and all subcontractors under the Bidder must at the time of bidding furnish and throughout the contract period provide, at their expense, hospitalization and medical coverage for all their workers at a level not less than that available through the Massachusetts Health Care Connector.

7. At least fifty percent (50%) of the qualified sub-bidders selected by the Bidder shall be required to participate in a bona fide apprentice training program as defined by M.G.L. ch. 23, § 11H and 11I. Said sub-bidders shall abide by the apprentice to journeyman ratio for each trade prescribed therein.

ALTERNATIVE PROPOSAL

At least fifty percent (50%) of the value of the total contract shall be awarded to qualified sub-bidders who participate in a bona fide apprentice training program as defined by M.G.L. ch. 23, § 11H and 11I. Said sub-bidders shall abide by the apprentice to journeyman ratio for each trade prescribed therein.

8. All Bidders and subcontractors under the Bidder who are awarded or who otherwise obtain construction contracts with the City of Chicopee shall comply with all of the above detailed obligations at the commencement of the contract and throughout the full contract period
9. Any Bidder or subcontractor under the Bidder who fails to comply with the obligation detailed above shall be subject to any one or more of the following sanctions as determined by the City of Chicopee: (1) cessation of work on the project until compliance is obtained; (2) withholding of payment due under any contract or subcontract until compliance is obtained; (3) permanent removal from any further work on the project; (4) liquidated damages payable to the City of Chicopee in the amount of 5% of the dollar value of the contract or subcontract.
10. If any provision of this ordinance, or the application of such provision to any person, entity or circumstances, shall be enjoined or held to be invalid, the remaining provisions of this section, or the application of such section to persons or circumstances, other than that which is enjoined or held invalid shall be not affected thereby. The provisions contained in this ordinance shall supplement and be in addition to any other federal, state or local statute, ordinance, rule or regulation. Further, to the extent allowed by State and Federal law, the City reserves the right to waive any one of the above provisions if it is determined to be in the best interest of the City.

Chairman Tillotson stated that some of the changes since the last meeting on this matter are: that this ordinance would only cover vertical construction – above ground and that it would only cover projects that cost \$2,000,000.00 or more.

PUBLIC INPUT

Bob Berger, stated that he opposes this ordinance. In his opinion this ordinance discourages small businesses from participating in government projects. He also stated that in order to bid on a project his company has to pre-qualify with DECAM. He stated that paperwork is enormous.

Russell Nubile, stated that he has concerns with #6 regarding health insurance and in #7 the general contractor is not required to have apprentice program.

Ken Berger, stated that he is also concerned with #6 every employee needing health insurance.

Jon Avery, stated that the definition of vertical may need to be looked at. If Vertical means above ground how would a water tower fit in this picture.

Steve Carrington, stated that the general contractor should be held to the same standards. He also stated that the union contractors are not looking to set standards and not to be exclusive.

Mark Graver, supports the REO.

The committee discussed this ordinance. Several questions were raised regarding health insurance and the apprentice program. Dan Garvey stated that he will revisit this ordinance and redraft. Chairman Tillotson stated that he would like this ordinance to be brought out in September for a vote.

Motion made to table. Motion passed.

ITEM #13

Minutes – July 7, 2009

Motion made to approve. Motion passed.

Meeting adjourned at 8:20 PM.